

BEFORE THE
ILLINOIS COMMERCE COMMISSION

CENTRAL ILLINOIS LIGHT COMPANY)	DOCKET NO.
d/b/a AmerenCILCO)	09-0306
)	&
CENTRAL ILLINOIS PUBLIC SERVICE)	09-0307
COMPANY d/b/a AmerenCIPS)	&
)	09-0308
ILLINOIS POWER COMPANY)	&
d/b/a AmerenIP)	09-0309
)	&
Proposed general increase in)	09-0310
electric delivery service rates.)	&
(Tariffs filed June 5, 2009))	09-0311
)	
Proposed general increase in gas)	CONSOLIDATED
delivery service rates.)	
(Tariffs filed June 5, 2009))	

Springfield, Illinois
Thursday, December 10, 2009

Met, pursuant to notice, at 10:00 a.m.

BEFORE :

MR. JOHN ALBERS and MR. J. STEPHEN YODER,
Administrative Law Judges

SULLIVAN REPORTING COMPANY, by
Carla J. Boehl, Reporter
CSR #084-002710

1 APPEARANCES: (Continued)

2 MR. MICHAEL R. BOROVIK
3 Assistant Attorney General
4 100 West Randolph Street, 11th Floor
5 Chicago, Illinois 60601

6 (Appearing via teleconference
7 on behalf of the People of the
8 State of Illinois)

9 MR. JOSEPH E. DONOVAN
10 Corporate Counsel
11 100 Constellation Way
12 Baltimore, Maryland 21201
13 E-Mail: Joseph.donovan@constellation.com

14 (Appearing via teleconference on
15 behalf of Constellation New Energy
16 Gas Division, LLC)

17 MS. JENNIFER LIN
18 Office of General Counsel
19 160 North LaSalle, Suite C-800
20 Chicago, Illinois 60601
21 Ph. (312) 793-8183

22 (Appearing via teleconference
on behalf of Staff of the
Illinois Commerce Commission)

MS. KRISTIN MUNSCH
MS. JULIE SODERNA
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Chicago, Illinois 60606

(Appearing on behalf of the
Citizens Utility Board)

1 APPEARANCES: (Continued)

2 MR. ERIC ROBERTSON
3 LUEDERS, ROBERTSON & KONZEN
4 1939 Delmar Avenue
5 P.O. Box 735
6 Granite City, Illinois 62040

7 (Appearing via teleconference
8 on behalf of the Illinois
9 Industrial Energy Consumers)

10 MR. WILLIAM P. STREETER
11 HASSELBERG, WILLIAMS, GREBE, SNODGRASS & BIRDSALL
12 124 Southwest Adams, Suite 360
13 Peoria, Illinois 61602
14 E-Mail: Wstreeter@hwgsb.com

15 (Appearing via teleconference
16 on behalf of the Grain and Feed
17 Association of Illinois)

18 MS. JANIS VON QUALEN
19 MR. JAMES OLIVERO
20 Office of General Counsel
21 527 East Capitol Avenue
22 Springfield, Illinois 62701
Ph. (217) 785-3808

(Appearing on behalf of Staff of
the Illinois Commerce
Commission)

1		<u>I N D E X</u>			
2					
3	<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
4	None .				
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13		<u>EXHIBITS</u>			
14					
15				<u>MARKED</u>	<u>ADMITTED</u>
16	None .				
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PROCEEDINGS

JUDGE ALBERS: By the authority vested in me by the Illinois Commerce Commission, I now call Docket Number 09-0306 through 09-0311. These dockets concern the petition for general increase in gas and electric rates submitted by Central Illinois Light Company d/b/a AmerenCILCO, Central Illinois Public Service Company d/b/a AmerenCIPS, and Illinois Power Company d/b/a AmerenIP.

May I have the appearances for the record, please?

MR. FLYNN: Christopher W. Flynn, Jones Day, 77 West Wacker, Suite 3500, Chicago, Illinois 60601, appearing on behalf of the Ameren Illinois Utilities.

MR. WHITT: Also on behalf of the Ameren Illinois Utilities, Mark Whitt, Carpenter, Lipp and Leland, 280 North High Street, Suite 1300, Columbus, Ohio 43215.

MR. OLIVERO: Appearing on behalf of the Staff witnesses of the Illinois Commerce Commission, Jennifer Lin, 160 North LaSalle Street, Suite C-800, Chicago, Illinois 60601, and Janis Von Qualen and Jim

1 Olivero, 527 East Capitol Avenue, Springfield,
2 Illinois 62701.

3 MR. MUNSCH: On behalf of the Citizens Utility
4 Board, Julie Soderna and Kristin Munsch, 309 West
5 Washington, Suite 800, Chicago, Illinois 60606.

6 MR. BALOUGH: Appearing on behalf of the Cities
7 of Champaign, Urbana, Bloomington, Decatur and the
8 Town of Normal, Richard Balough, Balough Law Offices,
9 LLC, 1 North LaSalle Street, Suite 1910, Chicago,
10 Illinois 60602.

11 MR. STREETER: On behalf of the Grain and Feed
12 Association of Illinois, Bill Streeter of Hasselberg,
13 Williams, Grebe, Snodgrass and Birdsall, 124
14 Southwest Adams, Peoria, Illinois 61602.

15 MR. DONOVAN: On behalf of Constellation New
16 Energy Gas Division, LLC, Joseph E. Donovan,
17 D-O-N-O-V-A-N, 100 Constellation Way, Baltimore,
18 Maryland 20046.

19 MR. BEHM: On behalf of the Kroger Company,
20 this is Kurt J. Boehm, Boehm, Kurtz & Lowry, 36 East
21 Seventh Street, Suite 1510, Cincinnati, Ohio 45202.

22 MR. E. ROBERTSON: On behalf of the Illinois

1 Industrial Energy Consumers, Eric Robertson, Lueders,
2 Robertson and Konzen, P.O. Box 735, 1939 Delmar,
3 Granite City, Illinois 62040.

4 MR. BOROVIK: Appearing on behalf of the People
5 of the State of Illinois, Michael R. Borovik, B like
6 boy, O-R-O-V like Victor, I-K, 100 West Randolph
7 Street, Chicago, Illinois 60601.

8 JUDGE ALBERS: Any others? Let the record show
9 no response.

10 In terms of preliminary matters I have
11 a few procedural type things. We have the petition
12 to intervene of a few additional entities. I will
13 just go through those in the order they were filed.
14 August 10 Charter Communications, Inc., August 12
15 Enbridge Energy, LLP, ConocoPhillips Corp. as members
16 of IIEC, on August 14 System Council U-05, IBEW
17 AFL-CIO, August 19 Constellation New Energy Gas
18 Division, LLC, and September 24 Washington Mills
19 Hennepin, Inc., as a member of the IIEC.

20 Any objection to those petitions to
21 intervene? Hearing none, they are granted.

22 And additional motions concerning

1 appearances, we have a motion to appear pro hac vice
2 by John C. Dodd on behalf of Charter, a motion to
3 appear pro hac vice by Joseph E. Donovan on behalf of
4 Constellation New Energy. The first one was filed
5 August 10. The second one was filed August 19. Then
6 the August 21 motion to appear pro hac vice for
7 Christopher Kennedy on behalf of Ameren. We have a
8 December 8 motion to appear pro hac vice for Peter
9 Trombley on behalf of Ameren.

10 Any objections to those? Hearing
11 none, they are granted.

12 Then on December 8 we also had the
13 motion of the Ameren Illinois Utilities for leave to
14 file revised and corrected surrebuttal testimony.
15 Any objection to that? Hearing none, then it is
16 granted.

17 The only substantive motion that I am
18 aware of was that filed by Staff on December 8
19 concerning a motion to strike and we did receive the
20 Company's response to that yesterday. Is Staff
21 prepared to offer a reply?

22 MR. FLYNN: Actually, Judge, before we turn to

1 the substantive motion, I believe we also had a
2 motion filed, if I can find the date, to submit
3 revised rebuttal testimony.

4 JUDGE ALBERS: November 12, this one?

5 MR. FLYNN: Yes. And as a further curiosity
6 associated with that, a very efficient young woman
7 who works for us wrote back and believes that the
8 testimony of Leonard Jones, which we are proposing to
9 file on a revised basis, was served on the ALJs and
10 all the parties but somehow not filed on e-Docket. I
11 don't think anyone noticed and people replied to it
12 in any event, and as part of this motion we are now
13 seeking to file a revised rebuttal. So I guess no
14 harm, no foul perhaps. But I want to point out that
15 motion which I don't think falls into the substantive
16 category.

17 JUDGE ALBERS: I think you are right. Is there
18 any objection to the November 12 motion of the Ameren
19 Illinois Utilities for leave to file revised and
20 corrected rebuttal testimony? Hearing none, that
21 motion is granted as well.

22 Then we turn to Staff's motion to

1 strike. Ms. Von Qualen?

2 MS. VON QUALEN: Yes, thank you. I just have a
3 brief reply.

4 In regards to the regulatory asset
5 portion of the motion to strike, Staff's objection is
6 that the regulatory asset proposal is an entirely new
7 proposal presented in surrebuttal testimony. The new
8 proposal does address criticisms in rebuttal, Staff
9 rebuttal testimony, but only in as far as it is an
10 entirely new proposal that avoids the impacts about
11 which Staff was concerned. That does not get around
12 the fact that the proposal would have been responsive
13 to Staff's direct testimony. If the entirely new
14 proposal is allowed in surrebuttal testimony, Staff
15 will be precluded from analyzing the proposal and
16 opining as to the merits as to whether it could be
17 implemented or -- and if so, how it would be
18 implemented.

19 For the OPEB portion of the motion to
20 strike, the surrebuttal testimony filed by Ameren is
21 responsive to the direct testimony filed by the CUB
22 and AG's office. The Company seems to have simply

1 dropped the ball on their rebuttal testimony and
2 realized, when Staff also adopted the same
3 adjustment, that they needed to provide additional
4 information about it. That doesn't change the fact
5 that this information would have been responsive to
6 direct testimony.

7 In regards to the portion about the
8 incentive compensation surrebuttal testimony, it
9 should be pointed out that some of the information
10 provided in surrebuttal testimony is in addition to
11 testimony that the Company found relevant to Staff's
12 -- to and included in their rebuttal testimony. For
13 example, Ameren Exhibit 49.3 includes the Ameren
14 Services information which was not included in
15 Ameren's Exhibit 42.1 which contained the same
16 information but only for the AIUs. In other words,
17 the information was relevant to rebuttal testimony,
18 but Ameren just didn't put in the Ameren Services
19 portion of it. So the surrebuttal testimony contains
20 an entirely new position. It's the position about
21 removing additional pieces of the AMS incentive comp.

22 Staff did not have this and did not

1 consider it in rebuttal testimony which in our view
2 makes it irrelevant for surrebuttal testimony. The
3 Ameren Services information is new stuff, new
4 information, and that is what is included in Ameren
5 Exhibit -- the 49 exhibit and the 51.7 that Staff
6 moves to strike.

7 Insofar as the testimony that Staff
8 moves to strike on the basis that it is hearsay,
9 Staff believes the statements regarding evidence from
10 the prior proceeding are inadmissible. It appears
11 that the Ameren witness is relying on the information
12 for the truth of the matter asserted. The witness
13 makes the conclusion that the adjustments were made,
14 not due to load limitations, based upon Mr. Wright's
15 testimony in the prior proceeding. Ameren has
16 alleged that this is an admission and thus
17 inadmissible on that basis as far as the Staff
18 portion of the testimony they relied upon.
19 Mr. Riley's testimony in the 1990 docket is not an
20 admission because the facts are not the same in the
21 two proceedings. In the 1990 case the Company asked
22 to and Staff did not object to changing working gas

1 volumes. There was no issue in that proceeding -- or
2 there is no issue in this proceeding about working
3 gas volumes. Conversely, in this proceeding there is
4 an issue about used and useful that was not present
5 in the 1990 proceeding.

6 The Company by including this, the
7 statements about this testimony, is attempting to
8 compare apples with oranges, and this will simply
9 only confuse the record.

10 That is all the response that I have.

11 Thank you.

12 JUDGE ALBERS: Thank you. Judge Yoder and I
13 will take these comments in mind and will issue a
14 ruling regarding Staff's motion to strike later
15 today, at the latest tomorrow.

16 Is there anything further for today's
17 status hearing?

18 MR. FLYNN: No, I just wanted to let the judges
19 know that the parties have begun quite cooperative in
20 providing cross examination estimates and
21 availability restrictions for their witnesses. We
22 will be circulating to the parties this afternoon a

1 proposed order of witnesses and that will probably go
2 through a few iterations by the time we provide it to
3 the judges. I believe noon tomorrow was your
4 deadline.

5 JUDGE ALBERS: Great.

6 MR. FLYNN: So the process has been going very
7 well.

8 JUDGE ALBERS: Any other questions or comments
9 about that ruling we sent out last Friday?

10 MR. DONOVAN: Your Honor, I have one quick
11 clarification question, if I may.

12 JUDGE ALBERS: Sure.

13 MR. DONOVAN: This is Joe Donovan on behalf of
14 Constellation. I am in the process of putting
15 together both a supporting affidavit in support of
16 the testimony we submitted as well as the list of
17 exhibits. Am I correct to understand that you do not
18 want the list of exhibits filed, but circulated
19 amongst the attorneys?

20 JUDGE ALBERS: There is no need to file them on
21 e-Docket. But Monday morning when you show up for
22 the hearing, it would be helpful to hand that to us

1 and then I assume at least some of the other parties
2 might find it useful at least to follow along during
3 the hearing, if they had a copy of that as well.
4 That's why we included it in that, just to have
5 copies available for the others.

6 MR. DONOVAN: Would it be acceptable, Your
7 Honor, if we were to circulate -- I am probably not
8 going to be able to attend the first thing Monday
9 morning. Would it be possible to circulate via
10 e-mail either today or tomorrow my exhibit list?

11 JUDGE ALBERS: That's fine.

12 MR. DONOVAN: And then the last question I
13 have, assuming that there is no cross for my witness
14 and we are going to submit via affidavit, would Your
15 Honor be opposed to me doing that via telephone or do
16 I need to travel to Springfield in order to submit
17 the evidence formally into the record?

18 JUDGE ALBERS: Yeah, if there is no questions
19 for your witness, that's fine, if you want to do that
20 over the phone.

21 MR. DONOVAN: Okay. I will -- I can't say that
22 there is not right now. But once the list gets

1 finalized, I may be sending out an e-mail formally
2 requesting that and then indicating a time when I
3 would like to set up a bridge for the inclusion of
4 the evidence.

5 JUDGE ALBERS: We will try to work with your
6 time request.

7 MR. DONOVAN: Thank you very much. I
8 appreciate that. I will work around your schedule,
9 just a matter of coordinating when you want to try
10 and have it done.

11 JUDGE ALBERS: Sure. Anything else then?

12 MS. SODERNA: This is Julie Soderna from CUB.
13 What time were we scheduled to begin on Monday?

14 JUDGE ALBERS: Ten o'clock.

15 MR. OLIVERO: Would that be true of all the
16 days or just according to where we are at?

17 JUDGE ALBERS: I think once we are all in town,
18 we will probably start at 9:00 on the following days,
19 just to get an extra hour in.

20 Anything else? All right. If there
21 is nothing further then, we will continue this to
22 Monday morning at 10:00 o'clock.

1 (Whereupon the hearing in this
2 matter was continued until
3 December 14, 2009, at 10:00 a.m.
4 in Springfield, Illinois.)
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